



THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
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March 27, 2024

**VIA ECF**

The Honorable Sarah L. Cave  
United States Magistrate Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: Paul Phillips, et. al. v. The City of New York, et. al., 21 Civ. 8149  
(ALC)(SLC)

Your Honor:

I am a Senior Counsel in the office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, representing the appearing defendants in the above referenced matter. I write in response to plaintiffs' letter at Docket 167.

I am now able to inform the Court that I have made contact with Renan Beauchard. He is presently in Haiti, where there is substantial civil unrest as the Court is aware. Mr. Beauchard hopes to return to Florida next week. It is my understanding that he has not resided in New York since at least 2022, though he does appear to be the record owner of the subject property in New City, New York<sup>1</sup>. Mr. Beauchard has now requested representation from the this Office in this matter and our Office will be determining whether we are able to represent Mr. Beauchard in accordance with the provisions of General Municipal Law.

Given the foregoing, the City disagrees with plaintiffs' counsel that the "nail and mail" method of service was proper and that Mr. Beauchard's response to the Complaint is due on April 12, 2024. See N.Y. C.P.L.R. 308(4); First Tenn. Bank, N.A. v. Black, 10 Civ. 4925 (FB)(SMG), 2011 U.S. Dist. LEXIS 16358, at \*2-3 (E.D.N.Y. Feb. 18, 2011); Schwartzman v.

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<sup>1</sup> When our investigator went to the subject New City property on March 23, 2024, he encountered a relative of Mr. Beauchard, who was able to connect this Office with Mr. Beauchard in Haiti.

Musso, 201 A.D.2d 551, 552 (2d Dep't 1994). However, as has always been the case, and contrary to the approach of plaintiffs' counsel, this Office's goal is to constructively resolve the service issue and have Mr. Beauchard appear in the matter through counsel of his choice. As such, that will be one of the issues we discuss with Mr. Beauchard when we are able to talk to him, which has not yet been the case.

Given the foregoing developments, to the extent that the only issue which the Court wishes to raise with counsel at the April 10, 2024 conference at 10:00 a.m. was this one, I agree with opposing counsel that the conference does not appear necessary at this time. However, to the extent that the Court wishes to hold the conference, and as I previously told plaintiffs' counsel, I was previously scheduled to appear before Magistrate Judge Levy in the E.D.N.Y. in person the same morning, so I respectfully request that the conference in this case be rescheduled for 2:00 p.m. or after on April 10, 2024, or anytime on April 9 or 11, 2024, or at the Court's earliest convenience.

Thank you for your consideration herein.

Respectfully submitted,

/s/ Mark D. Zuckerman  
Mark D. Zuckerman

cc: All counsel (via ECF)